

JEFFERSON COUNTY COMMISSIONERS
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TOM LYTHGOE, CHAIR

KEN WEBER

DAVE KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
December 15, 2009**

Present: Commissioners Lythgoe, Weber and Kirsch; Harold Stepper, County Planner; Matt Johnson, County Attorney; Dennis Owens, Assistant County Attorney; Kellie Doherty, Personnel Officer; Craig Doolittle, County Sheriff; Bonnie Ramey, County Clerk and Recorder; Tom Harrington and Tara Mastel, JLDC; Noel Mathis, County Health Department; Joe Carter, Road Supervisor; Janet Cornish and Lanette Windemaker, Community Development Services of Montana; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Bob Ohnstad, Eddie Smith, DeDe Rhodes, Charlene Hall, Katy James, Mike Gilles, Steve Wagner, Brian Anderson, Robert Warren, Bob Warren, Tom Duffy, Doug Sparrow

REPORTS

Commissioner Lythgoe noted the receipt of November expense and revenue reports from the Clerk and Recorder's Office.

Commissioner Lythgoe noted the receipt of November cash report from the Treasurer.

CALENDAR REVIEW

12/21 Meeting with Great West re: PERS for Montana City and Clancy - 9:00
Meeting to discuss proposed cell phone policy - 10:30

COMMISSION REPORTS

IMPACT FEES STUDY

Commissioner Lythgoe reported that he took part in a conference call on Wednesday regarding impact fees. The expert on the call is willing to come out and meet with the Commission, and he has asked Harold to set up a meeting after the first of the year.

CENTER FOR MENTAL HEALTH

Commissioner Lythgoe reported that met with the Center for Mental Health Board in Helena on Monday. Seems to be a bit of a disconnect between the Helena office and headquarters in Great Falls. This was a nuts and bolts type of meeting to work on resolving issues. It was a long meeting, but productive.

VETERAN'S HOME SITING MEETING

Commissioner Kirsch reported that on the 14th they had a veteran's home meeting. It is looking more promising all the time. There are still some roadblocks, but they are working very hard and very diligently to overcome those.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

DISCUSS AND DECIDE ON TAX REFUND FOR YEARS 2003-2008

Bob Ohnstad, stated that he is a living human being, not a ward of the court or a ward of the state of Montana. He is coming to talk to other human beings and everyone here that he talks to has to acknowledge being a human being. Everyone here is personally responsible for what they talk about. Bob stated that on 11-25-07 he bought, for his used car inventory, his mother's trailer, which was depreciated down to nothing. Bob stated that it was a vehicle trailer. He tried to get the banks to appraise and they said that they couldn't because it wasn't worth anything and they couldn't loan any money on it, even if he put it on a lot as it is over 20 years old. No one would appraise. He then went to other companies that would do appraisals and finally found someone who was willing to make an estimate on the trailer. The appraiser said that the trailer would be worth about \$1,500 and what people do with them is they take the trailer and leave it in the trailer park for about a year; no one can buy it because it can't be placed, it can't be insured and you can't borrow money on it, and then they call him to haul it off to the dump for \$22/ton. Bob said that he asked that it be appraised for as high as it could be so that he could pay money into his mother's estate. He appraised the trailer for \$4,000 considering that it needs a roof and outside finishing as well as the baths and flooring replaced.

Bob stated that he then went to the Jefferson County assessor and got a letter from Sally Keener dated June 30 stating that it was a follow-up to their previous conversation and the conversation that he had with the area manager. Bob said that he never had a conversation with the area manager; Sally told him that she would have the manager call him, but he never did. The letter stated that based on a review of the property records, she would be removing the garage and shed and carport from the property record. Bob noted that those were not a part of the property since 1992. On December 8, 2008 she wrote another letter stating that upon receipt of his request for informal review she removed the garage and other outbuildings from the record. She also adjusted the grade from "good" to "average" and Bob noted that it should have been poor. The 2003 appraisal value, prior to adjustment, was \$47,380, which was over \$7,000 more than the trailer cost new more than 20 years ago. The adjusted 2003 value is set at \$26,580, so she is admitting that it was appraised too high and his parents had been paying taxes on the incorrect appraisal.

On January 5, 2009, he wrote a letter to Sally asking for further review of her letter. He stated that the trailer was professionally appraised for a maximum value of \$4,000, and the 2003 adjusted appraisal of \$26,580 is 6.645 times the maximum appraisal. He still hasn't received a 2009 adjustment. He further asked that as the 2003 reappraisal value prior to adjust was \$47,380, which suggested their awareness of at least \$20,800 over appraisal for the years 2003 to 2008, when those over-paid taxes would be repaid to him and at what percentage rate. Bob stated that Sally went onto dishonor on this letter and did not answer it. His letter to Sally went on to say that the person she was going to have call him over a month prior had never called, and Dan Bucks, head of DOR, had also not returned his calls. He further asked in the letter, under the Freedom of Information Act, for copies of any and all documents and guidelines used by appraisers in order to objectively determine the property taxes on a trailer in a trailer court. He asked that if no such documents exist that this be documented in writing along with a notarized statement that appraisers determine such appraisals and property taxes subjectively, not objectively. He has not received any of the information requested and they are in violation of federal law in that.

Bob stated that on February 3rd he got a letter from Steve Huntington stating that a value of less than \$32,000 for a structure over 1600 square feet is more than reasonable. Bob said that this is ridiculous because the trailer isn't 1600 square feet, it is 1500. Bob said that Steve sent along a Marshall and Swift valuation estimate that the state uses to see what they are worth brand new. So, the went from Sally's \$26,000 to \$31,870, then they went to \$40,800 and then he went before the Jefferson County Tax Appeal Board and they brought it down to \$31,000 because it was obvious that they were charging double taxes. He appealed it to the state and the state stonewalled it, set a date up for a meeting and then decided that if it couldn't be five to one against him, they wouldn't do it. This couldn't be resolved before he was required to pay the first half taxes this year. He got information from the Treasurer's office, the assessor's office and the archive office, although he couldn't get all of the relevant information that he needed to determine what the fair tax was, but what he did get was information that says that it was \$47,380, the taxes that his parents had to pay were \$621.59 and that at \$26,580 figuring on a pure ratio it should have been \$348.70. For the years 2003 to 2008, that totals \$1,681.62 which was overpaid. He is asking that this amount be returned to his mother's estate, half of which will go to the All Saints Lutheran Church and half to his sister. This does not include interest that should have been paid during this time, or the ten years prior that they were being incorrectly assessed for outbuildings. Bob stated that this is a modest amount and he is requesting that it be paid.

Commissioner Lythgoe asked who paid the taxes. Bob stated that his parents paid the taxes. Commissioner Lythgoe asked if they are still living. Bob stated that they aren't; the money would be coming to him in their will.

Commissioner Weber stated that after talking to Bob a couple weeks ago, he followed up with a member of the tax appeal board. The status as it sits now, Bob has filed for and received property tax assistance based on income, which is available to anyone in the county, but it has to be done each year. For instance, if Bob doesn't file next year, he would have to pay the full

amount of tax that this property would come to due based on the appraisal of \$33,916, what the county Tax Appeal Board said that the trailer was worth. Bob noted that the board didn't say that the trailer was worth that amount, they said that this is the appraisal amount based on no appraisal. It is based on what it cost new, and it is based on a manufactured home, not on a trailer. Commissioner Weber stated, at any rate, this is the value that the Tax Appeal Board determined that the tax should be on and they appraised it at that, and that value is adjusted based on the income of the new owner's income. Bob's tax has been adjusted down to \$59.32, and he still has to pay the specials – fire protection and solid waste fee. Bob will need to apply yearly for tax assistance. The Tax Appeal Board took into account the fact that the taxes were paid from 2003 through 2008 by someone else with no protest or application for property tax assistance at that time. The feeling of the Tax Appeal Board is that tax assistance is available but it must be applied for on a yearly basis, and the fact that the 2003 through 2008 taxes were paid without protest or application for assistance, made it relevant that those taxes were paid correctly and there was no need to refund those taxes. The property has been re-appraised and the Tax Appeal Board feels it is an appropriate amount.

Bob stated that the Tax Appeal Board didn't have the information from the 2003 to 2008 tax years; they didn't make any decision on that. None of this information was brought forth at the tax appeal. This was money that was taken from his parents without a proper evaluation of their house. Sally came out, violated federal law to go onto their land to look at the house, measure it, used bigger dimensions than the house has; none of this was brought up at the tax appeal meeting. This trailer is a part of his used car inventory and is on loan to the Lutheran Church for use as a parsonage, so it shouldn't even be on the tax rolls.

Commissioner Lythgoe noted that normally we have a recommendation from the treasurer's office and asked if we have a recommendation from Patty on this. Commissioner Weber stated that he did not talk to Patty, and no one had a recommendation from her. Commissioner Lythgoe called Patty to see if she has a recommendation on this matter. Commissioner Lythgoe stated that Patty has a problem going back clear to 2003, as well as the fact that the taxes were not paid by Bob, but by his parents and that there were no protests or requests for reduction in taxes from them.

Commissioner Kirsch stated that as his parents didn't request a reappraisal or a reduction, it is hard for the Commission to go back and make a change. If they set this precedent, there will be all kinds of people wanting to get reimbursed for overpayment by dead relatives.

Commissioner Weber moved to deny the request for a tax refund for year 2003 through 2008 from Bob Ohnstad. Commissioner Kirsch seconded. The motion carried.

Bob asked for copies of the Commissioner's business cards as they have made themselves personally responsible in compliance with Sally for basically stealing that money. Commissioner Lythgoe stated that he could pick up business cards at the Commission office. Bob said that he doesn't want to go to the Commission office; he has much contempt for the whole process as he (Commissioner Weber) came up with a whole bunch of other things that he could have claimed.

Commissioner Lythgoe asked Bob what he would like; could they get his address so that business cards could be sent to him. Bob requested that the Commissioner write their name and address that they could be served on a piece of paper. Bob went on to say that this wouldn't be in a fake court with a maritime flag; it would be in a constitutional court. Commissioner Lythgoe stated that the address is the same for all of the Commissioners. Bob said that he wanted home addresses, as there has to be a place where they can be served. Commissioner Lythgoe said that the address is the office address; they can be served there. The Commissioners have been served at the office before. Bob said that they have been served within the crooked court system. Bob asked that the record reflect that the Commissioners refused to admit who they are as individuals and where they can be served. He requested that a copy of the recording of the meeting be sent to him and thanked the Commissioners for their time and injustice.

RESOLUTION 45-2009 AMEND NORTH JEFFERSON COUNTY ZONING MAP FOR THE PURPOSE OF ESTABLISHING A TIF DISTRICT

Commissioner Weber read the resolution as follows:

RESOLUTION 45 - 2009

**RESOLUTION TO ADOPT
AN AMENDMENT TO THE
NORTH JEFFERSON COUNTY ZONING DISTRICT MAP**

BE IT RESOLVED by the Board of County Commissioners (the "Board") of Jefferson County (the "County"), Montana, as follows:

Section 1. Growth Policy. The Jefferson County Growth Policy was adopted June 18, 2003 and on November 3, 2009, the Jefferson County Board of County Commissioners adopted Resolution 40-2009 amending the Growth Policy in order to support secondary value-added industry.

Section 2. Authority to Revise. Pursuant to § 76-2-205., MCA, the Jefferson County Board of County Commissioners has statutory authority to revise boundaries for zoning districts.

Section 3. Promote Industry. The Jefferson County Board of County Commissioners desires to promote secondary, value adding industry in Jefferson County and further the establishment of tax increment financing industrial districts.

Section 4. Application to Revise. The applicants/owners, City/County Sanitation, Inc., Dave Duffy, Vice President/General Manager, 3630 York Rd, Helena, MT 59635; Jerral H. Bryant, 308 Highway 518, East Helena, MT 59635, and Todd D. and Christy L. Dighans, 314 Highway 518, East Helena, MT 59635, applied for a Zone Map Amendment, pursuant to Section 2.6 of the Amended North Jefferson County Zoning Regulations.

Section 5. Revision. The applicant requested an amendment of the zoning classification from **BASIC RESOURCE to INDUSTRIAL** on ~ 121.98 acres generally lying southeast of State Highway 518 and the Jefferson County/Lewis and Clark County line and adjacent to the City/County landfill. The general character of this Zone Map Amendment is from agricultural to industrial. The property is legally described as:

Beginning at the East ¼ corner of Section 6, T. 9 N., R. 2 W., P.M.M., Thence along the Southerly line of Tract A, COS 152653 a Bearing of S 89°47'47" W a distance of 2386.18 feet to the True Point of Beginning; Thence S 89°47'47" W a distance of 717.48 feet; Thence S 1°26'13" E a distance of 79.74 feet, Thence S 37°39'17 E a distance of 290.01 feet; Thence S 70°31'51" E a distance of 459.42 feet; Thence S 22°33'29" E a distance of 427.00 feet; Thence S 75°36'27" E a distance of 240.00 feet; Thence S 0°15'44" W to the South line of the North ½ of the South ½ of said Section 6, a distance of +/- 400.00 feet; Thence along said South Line S 89°47'47" W a to the East ROW line of Montana Secondary Highway 518, a distance of +/- 2154.60 feet; Thence along said East line of Montana Secondary Highway 518 N 3°13'42" W to the Northwest Corner of Lot 1, Bahny's Minor Subdivision a distance of +/- 2658.45 feet; Thence along the North line of Bahny's Minor Subdivision, and COS 152653 N 89°45'12" E a distance of 2010.09 feet, Thence to the Point of Beginning S 0°12'42" E a distance of 1336.27 feet. Described area encompassing +/- 121.98 acres.

Section 6. Planning Board. The Jefferson County Planning Board conducted a public hearing on October 21st, 2009 to accept public testimony.

Section 7. Planning Board Recommendation. Having considered the proposed revisions and the received public testimony the Jefferson County Planning Board has passed and adopted a resolution which made a recommendation to the Jefferson County Board of County Commissioners that they adopt the proposed Zone Map Amendment.

Section 8. Notice. Notice of all public hearings and public meetings were published in accordance with §§ 76-2-205 and 7-1-2121, MCA prior to the Jefferson County Board of County Commissioners taking any action to establish, revise, adopt or amend zoning.

Section 9. Public Hearing. That in accordance with §76-2-205, MCA, the Jefferson County Board of County Commissioners held a public hearing on November 3, 2009, to receive recommendations and suggestions from the public regarding the proposed adoption of this Zone Map Amendment to the North Jefferson County Zoning District Map from **BASIC RESOURCE to INDUSTRIAL** on ~ 121.98 acres.

Section 10. Intent to Adopt. On November 3, 2009, the Jefferson County Board of County Commissioners, in accordance with §76-2-205, MCA, expressed its intent to adopt this Zone Map Amendment to the North Jefferson County Zoning District Map from **BASIC RESOURCE to INDUSTRIAL** on ~ 121.98 acres with the adoption of Resolution 38-2009.

Section 11. Hearing on Resolution of Adoption. The Jefferson County Board of County Commissioners set the regularly scheduled Board of County Commissioners meeting of Tuesday, December 15, 2009, for the final adoption of this Zone Map Amendment to the North Jefferson County Zoning District Map.

Section 12: Notice of Passage. In accordance with §76-2-205, MCA, notice of passage of the resolution of intention was published on November 11 and 18, 2009.

Section 13. Protest Period. In accordance with §76-2-205, MCA, for 30 days after first publication of the notice, November 11, 2009, the County Commission accepted written protests to this Zone Map Amendment to the North Jefferson County Zoning District Map from persons owning real property within the district whose names appear on the last-completed assessment roll of the County.

Section 14. Protest. Between November 11, 2009, and December 12, 2009, Jefferson County did not receive protests to establishment of the district or adoption of the regulations from 40% of the real property owners within the district whose names appear on the last-completed assessment roll or if real property owners representing 50% of the titled property ownership whose property is taxed for agricultural purposes under § 15-7-202 or whose property is taxed as forest land under Title 15, chapter 44, part 1.

Section 15. Public Interest. The Jefferson County Board of County Commissioners finds that this Zone Map Amendment to the North Jefferson County Zoning District Map generally complies with the public interest criteria for consideration; the Zone Map Amendment will serve the public interest; there is no appropriate Basic Resource use of this property; and there is a need for Industrial use of the property at this location.

Section 16. Findings. In accordance with §76-2-203, MCA, the Jefferson County Board of County Commissioners finds that this Zone Map Amendment to the North Jefferson County Zoning District Map has been made in accordance with the growth policy; and is designed to: secure safety from fire and other dangers; promote public health, public safety, and general welfare; and facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Section 17. Consideration. In accordance with §76-2-203(2), MCA, the Jefferson County Board of County Commissioners considered reasonable provision of adequate light and air; the effect on motorized and non-motorized transportation systems; compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities; the

character of the district and its peculiar suitability for particular uses; and conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area in the adoption of this Zone Map Amendment to the North Jefferson County Zoning District Map.

Section 18. Compliance. The Jefferson County Board of County Commissioners finds that this Zone Map Amendment to the North Jefferson County Zoning District Map complies with the Amended North Jefferson County Zoning Regulation; the overall intent of the regulation; the intent of the Industrial zoning district affected by the proposed change; and any specific provisions related to amendments.

Section 19. Spot Zoning. The Jefferson County Board of County Commissioners finds that this Zone Map Amendment to the North Jefferson County Zoning District Map is not spot zoning; the Industrial zoning designation and potential uses are generally compatible with the prevailing uses in the area; the Industrial zoning designation will generally be of benefit to the surrounding neighborhood, community and the general public; and the Industrial zoning designation is compatible with the Growth Policy and it is not special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public.

Section 20. Effective. This Zone Map Amendment to the North Jefferson County Zoning District Map shall be in effect immediately upon passage and adoption of this resolution.

PASSED AND ADOPTED by the Board of County Commissioners of Jefferson County, Montana, this 15th day of December, 2009.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER

Commissioner Weber moved to adopt the resolution. Commissioner Kirsch seconded. The motion carried.

RESOLUTION 46-2009 ADOPT SUNLIGHT ZONING REGULATIONS AND MAP FOR
THE PURPOSE OF ESTABLISHING A TIF INDUSTRIAL DISTRICT

Commissioner Weber read the resolution as follows:

RESOLUTION 46 - 2009

**RESOLUTION TO ADOPT
THE SUNLIGHT ZONING REGULATION AND MAP**

BE IT RESOLVED by the Board of County Commissioners (the "Board") of Jefferson County (the "County"), Montana, as follows:

Section 1. Growth Policy. The Jefferson County Growth Policy was adopted June 18, 2003 and on November 3, 2009, the Jefferson County Board of County Commissioners adopted Resolution 40-2009 amending the Growth Policy in order to support secondary value-added industry.

Section 2. Authority to Create. Pursuant to §§ 76-2-201 et seq., MCA, the Jefferson County Board of County Commissioners has statutory authority to adopt zoning regulations.

Section 3. Purpose of Zoning. The Jefferson County Board of County Commissioners desires to promote the public health, safety, morals, and general welfare; and regulate development.

Section 4. Promote Industry. The Jefferson County Board of County Commissioners desires to promote secondary, value adding industry in Jefferson County and further the establishment of tax increment financing industrial districts.

Section 5. Petition to Create. The petitioners/owners, Golden Sunlight Mine, Inc., P.O. Box 970, Elko, NV 89803-0970 and Jefferson Local Development Corporation, P.O. Box 1079, Whitehall MT 59759, submitted a petition to create the Sunlight Zoning District by adoption of the Sunlight Zoning Regulation and Map in accordance with §76-2-201, MCA.

Section 6. Zoning District. The petitioners/owners requested creation of the Sunlight Zoning District with the adoption of the Sunlight Zoning Regulation and Map on ~ 8,156 acres generally located in the Golden Sunlight Mine area of Jefferson County. The general character of the zoning regulation is industrial. The district boundaries encompass the property legally described as:

TOWNSHIP 2 NORTH, RANGE 3 WEST PRINCIPAL MERDIAN
JEFFERSON COUNTY, MONTANA

Section:	17	ALL	
Section:	18	ALL	
Section:	19	ALL	
Section:	20	ALL	excepting the SW1/4 of the SW1/4.
Section:	21	ALL	

Section: 28 W1/2, W1/2 of the E1/2
 Section: 29 ALL excepting the NW1/4 of the NW1/4.
 Section: 30 ALL
 Section: 31 W1/2 of the NW1/4, NE1/4 of the NW1/4
 Section: 32 ALL, less lands included in Right of Way.
 Section: 33

A tract of land, more particularly described as follows:
 Commencing at a point on the North line of Section 33,
 from which the North quarter corner of said Section 33
 bears due west 680 feet; thence South 2044 feet; thence
 south 44 degrees 15 minutes East 1809 feet; thence South 6
 degrees 44 minutes East 1258 feet to a point on the
 Yellowstone Trail Road and from which point the
 Southeast corner of said Section 33 bears South 50 degrees
 5 minutes East 1036.5 feet; thence South 84 degrees 45
 minutes West 1782 feet along said Yellowstone Trail Road;
 thence North 86 degrees 45 minutes West 1357.5 feet along
 said Yellowstone Trail Road to a point on the West line of
 said Section 33, from which the Southwest corner of said
 Section 33 bears South 844.5 feet; thence North to the
 Northwest corner of said Section 33; thence East to the
 place of beginning.

Section: 33

A tract of land in the Northeast ¼ more particularly
 described as follows: Commencing at a point from which
 the Northeast corner of Section 33 bears due East 268 feet,
 thence West on the North section line of said Section 33,
 1773 feet, to a point from which the North quarter corner of
 said Section 33 bears due west 680 feet, thence South 2044
 feet to a point, thence East 250 feet to a point, thence North
 772.6 feet to a point, thence North 72 degrees 30 minutes
 East 425 feet to a point, thence North 44 degrees 30
 minutes East 1611 feet to the place of beginning.

TOWNSHIP 2 NORTH, RANGE 4 WEST, PRINCIPAL MERIDIAN
JEFFERSON COUNTY, MONTANA

Section: 13 ALL
 Section: 14 E1/2
 Section: 24 ALL
 Section: 25 East ½, East ½ of the West ½.

Section 7. Planning Board. The Jefferson County Planning Board conducted a public hearing on October 21st, 2009 to accept public testimony.

Section 8. Planning Board Recommendation. Having considered the proposed revisions and the received public testimony the Jefferson County Planning Board has passed and adopted a

resolution which made a recommendation to the Jefferson County Board of County Commissioners that they adopt the Sunlight Zoning Regulation and Map with the requested change to Section 2.3.4.1 increasing the height of buildings from 90 feet to 350 feet to standardize the allowed height of industrial buildings within Jefferson County.

Section 9. Notice. Notice of all public hearings and public meetings were published in accordance with §§ 76-2-205 and 7-1-2121, MCA prior to the Jefferson County Board of County Commissioners taking any action to establish, revise, adopt or amend zoning.

Section 10. Public Hearing. That in accordance with §76-2-205, MCA, the Jefferson County Board of County Commissioners held a public hearing on November 3, 2009, to receive recommendations and suggestions from the public regarding the proposed adoption of the Sunlight Zoning Regulation and Map.

Section 11. Intent to Adopt. On November 3, 2009, the Jefferson County Board of County Commissioners, in accordance with §76-2-205 MCA, expressed its intent to adopt the Sunlight Zoning Regulation and Map on ~ 8,156 acres generally located in the Golden Sunlight Mine area of Jefferson County with the requested change to Section 2.3.4.1 increasing the height of buildings from 90 feet to 350 feet to standardize the allowed height of industrial buildings within Jefferson County with the adoption of Resolution 39-2009.

Section 12. Hearing on Resolution of Adoption. The Jefferson County Board of County Commissioners set the regularly scheduled Board of County Commissioners meeting of Tuesday, December 15, 2009, for the final adoption of the Sunlight Zoning Regulation and Map.

Section 13: Notice of Passage. In accordance with §76-2-205, MCA, notice of passage of the resolution of intention was published on November 11 and 18, 2009.

Section 14. Protest Period. In accordance with §76-2-205, MCA, for 30 days after first publication of the notice, November 11, 2009, the County Commission accepted written protests to creation of the Sunlight Zoning District by adoption of the Sunlight Zoning Regulation and Map from persons owning real property within the district whose names appear on the last-completed assessment roll of the County.

Section 15. Protest. Between November 11, 2009, and December 12, 2009, Jefferson County did not receive protests to establishment of the district or adoption of the regulations from 40% of the real property owners within the district whose names appear on the last-completed assessment roll or if real property owners representing 50% of the titled property ownership whose property is taxed for agricultural purposes under § 15-7-202 or whose property is taxed as forest land under Title 15, chapter 44, part 1.

Section 16. Public Interest. The Jefferson County Board of County Commissioners finds that the Sunlight Zoning Regulation and Map generally complies with the public interest criteria for consideration; the Sunlight Zoning Regulation and Map will serve the public interest; there is no appropriate other use of this property; and there is a need for Industrial use of the property at this location.

Section 17. Findings. In accordance with §76-2-203, MCA, the Jefferson County Board of County Commissioners finds that the Sunlight Zoning Regulation and Map has been made in accordance with the growth policy; and is designed to: secure safety from fire and other dangers; promote public health, public safety, and general welfare; and facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Section 18. Consideration. In accordance with §76-2-203(2), MCA, the Jefferson County Board of County Commissioners considered reasonable provision of adequate light and air; the effect on motorized and non-motorized transportation systems; compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities; the character of the district and its peculiar suitability for particular uses; and conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area in the adoption of the Sunlight Zoning Regulation and Map.

Section 19. Compatibility. Pursuant to §76-2-203, MCA, the Jefferson County Board of County Commissioners finds that the Sunlight Zoning Regulation is, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

Section 20. Spot Zoning. The Jefferson County Board of County Commissioners finds that the Sunlight Zoning Regulation and Map is not spot zoning; is generally compatible with the prevailing uses in the area; will generally be of benefit to the surrounding neighborhood, community and the general public; and, is not special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public.

Section 21. Effective. The Sunlight Zoning Regulation and Map shall be in effect immediately upon passage and adoption of this resolution.

PASSED AND ADOPTED by the Board of County Commissioners of Jefferson County, Montana, this 15th day of December, 2009.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER

Commissioner Weber moved to adopt the resolution. Commissioner Kirsch seconded. The motion carried.

FINAL READING AND ADOPTION OF ORDINANCE 2009-01 ORDINANCE
ESTABLISHING A TAX INCREMENT FINANCE DISTRICT IN NORTH JEFFERSON
COUNTY

Commissioner Weber moved to adopt the ordinance (on file in the Clerk and Recorder's Office). Commissioner Kirsch seconded. The motion carried.

FINAL READING AND ADOPTION OF ORDINANCE 2009-02 ORDINANCE
ESTABLISHING A TAX INCREMENT FINANCE DISTRICT IN SOUTHERN JEFFERSON
COUNTY

Commissioner Weber moved to adopt the ordinance (on file in the Clerk and Recorder's Office). Commissioner Kirsch seconded. The motion carried.

PUBLIC HEARING – FINAL LEVY FOR MOONLIGHT RSID

Commissioner Lythgoe called the hearing to order and called for comments.

Robert Warren stated that he doesn't use this portion of Jackson Creek Road; they access their property from Hill Brothers Road. He doesn't see why his family should have to pay for a road that they don't use just because it borders their land. Their property is zoned basic resource so they can't use the property for anything but running horses and cows. He is protesting this; every time he turns around his taxes are going up. He also feels that the basic resource zoning was shoved down his throat. He and Al Hill are the only ones in the area with basic resource zoning. His son moved up here from Arizona, and he can't even build a house on his property for his son.

Commissioner Lythgoe stated that they are looking at zoning in that area and he asked Robert if he has been before the Zoning Commission asking for a change. Robert stated that he hasn't. Commissioner Lythgoe asked if Robert would like to see a change in the zoning in that area. Robert stated that he would; it is difficult because they have 360 acres and they can't do anything on their own property. Commissioner Lythgoe asked what he would like to be able to do on his property. Robert stated that he would like to be able to build a house for his son, and his brother might like to be able to do the same. Commissioner Lythgoe stated that he thinks that the Zoning Commission will be looking at that area, as there have been requests from others in the area for a change in the zoning.

Robert stated that the land surrounding his was given permission to subdivide. He just had his land assessed, and it was assessed at \$2,200/acre. The subdivided lots next to him went for \$100,000 for 1.5 acre; they are taking away any monetary value of their land. Commissioner Lythgoe stated that the zoning has been in place for years; this Commission, because of the requests of people in the area, is currently reviewing the zoning in the area. The Zoning Commission needs the help of those that live in the area, because Jefferson County does bottom up zoning.

Commissioner Weber stated that the information they are looking for is the type of zoning that they would like to see. Robert said that at this time they have no desire to subdivide, but they

would like the option open to them. Commissioner Lythgoe said that they don't need an answer today, but this is something that his family will need to discuss so that when the time comes to review the zoning in that area they will have a clear plan for the future.

Bob Warren stated that he also would like to protest a levy on their property because they do not use that portion of the road.

Hearing no further comment, Commissioner Lythgoe closed the public hearing.

RESOLUTION 47-2009 MOONLIGHT RSID FINAL LEVY

Commissioner Weber read the resolution as follows:

RESOLUTION 47-2009

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 2511 (MOONLIGHT RIDGE); FINAL LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS AND FUNDING MAINTENANCE COSTS OF THE IMPROVEMENTS

BE IT RESOLVED by the Board of County Commissioners of Jefferson County (the "County"), Montana, as follows:

Section 1. The District; the Improvements. The County has created a Rural Special Improvement District (the "District") pursuant to Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), denominated Rural Special Improvement District No. 2511 (the "District"), and undertaken certain local improvements (the "Improvements") to benefit property located therein. The Improvements have been or, by the conclusion of the current construction season, will be substantially completed and the total costs of the Improvements to be paid with proceeds of the Bond (as hereinafter defined) are estimated to be \$249,999.00, including all incidental costs. The County has also provided for funding the estimated costs of maintaining the Improvements by creating a maintenance district coextensive with the boundaries of the District (the "Maintenance District").

Section 2. The Bond. The County has pursuant to the Act authorized the issuance of its Rural Special Improvement District bids drawn on the District, denominated "Rural Special Improvement District No. 2511 Bond," in the original aggregate principal amount of \$271,333 (the "Bond"), to finance costs, including incidental costs, of the Improvements. The Bond is payable primarily from special assessments to be levied against property in the District.

Section 3. Method of Assessment. (a) Pursuant to Resolution 07-2009, adopted by this Board on January 27, 2009, and which constitutes the Resolution of Intention to Create the District, this Board determined to levy special assessments to pay the costs of the Improvements on the basis or bases therein provided as authorized by the Act. The County also provided in

such Resolution of Intention to Create the District the Maintenance District to fund costs of maintaining the Improvements.

(b) This Board hereby ratifies and confirms that the assessment of costs of the specific Improvements against the properties benefitted thereby as prescribed by the Resolution of Intention are equitable and in proportion to and not exceeding the special benefits derived from the respective Improvements by the lots, tracts and parcels to be assessed therefor within the District, and the special assessments levied by this resolution are in accordance with the methods and do not exceed the amounts prescribed by the Resolution of Intention.

Section 4. Public Hearing; Objections. This Board, on November 24, 2009, adopted Resolution 42-2009, pursuant to which this Board declared its intention to levy and assess the special assessments in the District. Notice of passage of the resolution was duly published and mailed in all respects in accordance with law, and on December 15, 2009, this Board conducted a public hearing on the levying and assessment of the special assessments.

This Board has considered the objections, if any, submitted to the proposed assessments and other comments made at the public hearing. This Board has determined not to modify any of the special assessments appearing in the proposed assessment roll attached as Exhibit A to such resolution.

Section 5. Final Levy of Assessments. The special assessments for the costs of the Improvements shall be levied and assessed against properties in the District in accordance with the method of assessments referred to in Section 3. Such assessments shall be payable over a term not exceeding 15 years, each in substantially equal semiannual payments of principal and interest within a fiscal year, taking into account each year the variable rate of interest under the INTERCAP Program of the Montana Board of Investments. Property owners shall have the right to prepay the special assessments as provided by law.

The special assessments shall bear interest from the date of issuance of the Bond until paid at an annual rate equal to the Interest Rate (as hereinafter defined), as such may change from time to time, plus penalties and interest for delinquent installments as provided by law. As used herein, "Interest Rate" means, as of the date of determination, the sum, determined as of the date an installment of the special assessment is levied each fiscal year, of: (i) the then current Loan Rate (i.e., the interest rate applicable to local governmental borrowers under the INTERCAP Program of the Montana Board of Investments then in effect), plus (ii) one percent (1.00%) per annum, plus (iii) if and to the extent that the Loan Rate is then less than fifteen percent (15.00%) per annum (the maximum interest rate on the Bond), an additional one percent (1.00%) per annum, interest being payable with principal installments. The Interest Rate shall be determined by August of each fiscal year so long any Bond is outstanding and shall apply to the outstanding installments of the special assessments not delinquent. If no amounts under the Bond are outstanding, but special assessments remain unpaid and are not delinquent, the Interest Rate shall be equal to the Interest Rate as most recently determined. The initial Interest Rate for the fiscal year ending June 30, 2010 (and with respect to principal and interest installments due on the Bond on February 15, 2010 and August 15, 2010) shall be 5.25% per annum.

The special assessments shall be levied against the lots, tracts and parcels in the respective amounts listed on Exhibit A to this resolution (which is hereby incorporated herein and made a part hereof). Exhibit A contains a description of each lot, tract or parcel of land to be assessed, the name of the owner, if known, and as to special assessments due May 31, 2010 and November 30, 2010 to pay debt service on the Bond, the total amount of the special assessment levied against each lot, tract or parcel, the amount of each partial payment of the special assessment, and the day when each such partial payment shall become delinquent (the "Assessment Role"). Exhibit A also contains the proposed amount to be assessed to pay maintenance costs of the Improvements.

Section 6. Certification of Assessments. A copy of this resolution, including Exhibit A hereto, certified by the Clerk and Recorder shall be delivered to the County Treasurer within two days after the adoption hereof.

Section 7. Further Actions. Officers of the County are further authorized and directed to take all actions as may be required by law to assure that the special assessments levied by this resolution are duly certified, assessed and collected in accordance with law.

ADOPTED by the Board of County Commissioners of Jefferson County, Montana, this 15th day of December, 2009.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER

Commissioner Lythgoe asked Mr. Warren if he is only being assessed for one parcel. He stated that he is. Commissioner Lythgoe stated that if it gives him any comfort, if those lots would have been subdivided before the RSID was formed, he would have been assessed for each lot.

Commissioner Weber moved to adopt the resolution. Commissioner Kirsch seconded. The motion carried.

DISCUSS AND DECIDE ON TAX BENEFIT AMOUNT TO SET PER COUNTY CELL PHONE

Matt Johnson, County Attorney, stated that several counties have found that the IRS considers cell phones a personal benefit. Cascade County had a \$25,000 fine last year based upon that fact and some other issues they had. What the IRS considers is that if an employee has a cell phone, they are basically benefitting personally somehow through that, and that benefit needs to be taxed. Different suggestions have been provided and a week or so ago he provided the Commission with several possible solutions. One was to ascertain if there is a personal benefit is that a person swears that they never use the phone (voice or text) for personal business, then they can swear that there is no personal benefit to having that cell phone. However, the IRS seems to find that there is a lot more personal benefit out there than people would think. County policy does allow for limited personal use of a county cell phone; in the mind of the IRS this is a benefit that they need to tax. He disagrees with the need for them to do this, but they need to come up with the best way to define that benefit. One suggestion is to define 25% use of the phone as personal benefit. He has the IRS regulations with their suggestions and it seems like it would be tough to make that determination on each person's cell phone. Cascade County decided to change their entire cell phone policy. There are two options; employees swear and signs off that only use cell phone for county business, if there is any personal use whatsoever the county reimburses the employee for getting their own cell phone at the basic line rate and runs it through payroll.

His proposal for a phone policy is to give employees an option to either declare that they use the county cell phone for business only, or to get their own phone, and be reimbursed at the rate of the county plan. This would eliminate the need for someone to audit the phone bills and if a person went over their minute or texting limit due to personal usage, it would be up to them to pay. It is hard to discriminate what calls coming in are personal.

Commissioner Lythgoe asked if there are other options, such as varying percentages. Matt stated that as far as the IRS is concerned, they give three different methods that they are recommending, but they still haven't passed the final version. The options are minimal personal use, 25% personal use or use a statistical method. What they are figuring out is that it seems easier to just have one set amount of money per month for a line if somebody wants to use that line. His proposed policy gives employees two options; the cell phone reimbursement which is a taxable benefit or they can sign a waiver that they will use the county cell phone strictly for business, and they would be open for audit of phone records.

Commissioner Lythgoe stated that he doesn't even know how you can audit something like that. It is not inappropriate for him to call his wife to let her know that he is going to be late because something has come up at the office. Matt stated that one of the issues out there is the overuse of individual plans. He thinks if people have their own phone that they are responsible for, they will be more conscience of not going above the set limits. Commissioner Lythgoe asked if we still have a lot of people that are going way over on their usage. Kellie stated that there are, and it varies month to month.

Commissioner Weber stated that it goes all the way down to an employee having the phone in their pocket. He has done some checking around, and if an employee is given a phone, he puts it in his pocket and goes home, even if they don't ever make a call, the IRS considers that a personal benefit by having the ability to have that phone and they want a piece of that. It seems the way to

handle this is for the county to get the phones, pay for the line charges and assign the taxable benefit to the employee.

Commissioner Lythgoe stated that he feels that we should have a department head meeting and discuss this whole issue. Kellie stated that she and Matt have already talked to most of the department heads and elected officials and went through every option. She stated that this way seems to be the easiest way to deal with this, especially for Bonnie, who would have to audit the phone bills. Commissioner Lythgoe stated that if they go with a percentage, there wouldn't need to be an audit. Kellie said that the IRS would still want an audit to be done to ensure that the proper percentage is being charged. Matt noted that a potential problem with a flat percentage is that someone might not be using the phone for personal use 25% of the time, but may think that since they are being taxed for it, they will use the phone for a greater amount of personal calls. This could cause them to go over the usage limit, which would end up costing the county more money. Instead, if they have a set government line rate maximum for reimbursement and allow people who have some personal benefit to get their own phone, it eliminates that issue.

Commissioner Lythgoe stated that this needs to be discussed further; this is not ready for a decision today.

DISCUSS AND DECIDE ON QWEST/BULLOCK UTILITY DAMAGE ON SOUTH HILLS ROAD RID PROJECT

Dennis Owens, Deputy County Attorney, stated that this is a matter that may result in litigation, so perhaps it should be a closed session. The Commissioner stated that there was no need to close the meeting at this time. Dennis stated that Qwest has made a claim against Bullock Construction for damage caused by road construction done by Bullock Construction while working on the South Hills RSID. Qwest is willing to accept 50%, partially because this is an aged claim. The County's options are to pay, make a counter-offer or assert a statute of limitations defense.

Commissioner Lythgoe asked Dennis for recommendation on those three. Dennis stated that based on the time and cost to litigate and potential harm to contractor who may in turn litigate if there is damage to their professional reputation, he would recommend paying the discounted amount. Dennis noted that he has been told that a reduction of this amount is highly unusual. The discounted amount is \$1,991.07. Commissioner Lythgoe stated that they have been talking about this for two year. We have asserted that this is not a county problem, not the engineer's problem, not the contractor's problem, but Qwest's problem. They disagree. It will cost us a lot more to fight this in court.

Commissioner Lythgoe moved to settle the issue and the county issue a warrant in the amount of \$1,991.07 to Qwest to settle this issue. Commissioner Weber seconded. The motion carried. Dennis will communicate this to Qwest and get payee information. Commissioner Lythgoe stated that he would further move that the money come from PILT. Commissioner Weber seconded. The motion carried.

RESOLUTION 48-2009 RESOLUTION OF INTENT TO FORM THE CATARACT FIRE SERVICE AREA

DeDe Rhodes stated that when the Basin Fire District expanded their boundaries, Commissioner Weber asked if they would be willing to cover some properties that cross the grid lines. She presented the Commission with a list of eight properties that are in both areas.

DeDe stated that she did this because she wasn't sure where Commissioner Weber was going with his question; whether he was asking for those properties to be totally included in the taxing authority or just fire protection. She has since met with Bonnie and Matt and learned that it was just related to fire protection. She was also told by Bonnie that anyone who owned property in the area could come before the Commission requesting that they be in one district or the other. She would like to say that Basin Fire District is in total agreement with the County on the legal formation of any fire protection entity. Commissioner Weber asked DeDe if she has contacted any of the people listed to see if they would like to be totally within the Basin Fire District. DeDe stated that she has not.

Commissioner Weber moved to adopt the resolution. Commissioner Lythgoe seconded. The motion carried, with Commissioner Lythgoe and Commissioner Weber voting aye and Commissioner Kirsch voting nay.

APPOINT BOARD MEMBERS

Commissioner Lythgoe stated that the Commission has received a request from the Library Board that Ken Weber be allowed to remain a member of the Library Board, as a citizen member.

Commissioner Lythgoe moved to appoint Ken Weber as a citizen member to the Library Board, as of January 1, 2010. Commissioner Kirsch seconded. The motion carried.

Commissioner Lythgoe moved to appoint Eddie Smith to the DUI Task Force. Commissioner Kirsch seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER